

### ***Remarks***

Claims 17, 19, 22, 24-27 and 44 are pending in the application.

#### ***I. Rejection of the Claims Under 35 U.S.C. § 102(b)***

Claims 17 and 24-27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lee *et al.* (U.S. Patent No. 5,348,886). (Office Action, page 2.) Applicants respectfully disagree.

The Examiner asserts that Lee *et al.* discloses a method of producing recombinant viruses utilizing a baculovirus genomic DNA wherein the baculovirus DNA has two site-specific transposon sites. (Office Action, page 3.) Applicants assert that the transposon mediated genetic manipulations disclosed in Lee *et al.* are different from the site-specific recombination reactions claimed in the present application.

Lee *et al.* describes methods for producing recombinant viruses using transposons such as Tn7 which insert into the specific target site attTn7 (column 6, lines 51-58 and column 7, lines 59-61). Thus, Lee *et al.* describes methods where a nucleic acid molecule is inserted into a single target site. However, independent claim 17 is directed to a method where both the first and second nucleic acid molecules have two recombination sites “and under conditions such that recombination occurs between the first and third recombination site and between the second and fourth recombination site.” No where does Lee *et al.* describe recombination reactions involving two pairs of recombination sites. Because all of the limitations of the claims have not been disclosed by Lee *et al.*, the claims are not anticipated.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. § 102(b).

#### ***II. Rejection of the Claims Under 35 U.S.C. § 102(a)***

Claims 17, 19, 22, 24-27 and 44 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Loftus *et al.* (*DNA Research* 8:221-226, 2001). (Office Action, page 3.) Applicants respectfully disagree.

The Examiner asserts that Loftus *et al.* discloses “the first instance of site-specific recombination being used to generate retroviral gene constructs.” (Office Action, page 3.) Loftus *et al.* has a publication date of October 31, 2001. Submitted herewith is a declaration

under 37 C.F.R. § 1.131 by Peter J. Welch, an inventor, stating that the conception and reduction to practice of the claimed subject matter occurred prior to October 31, 2001. In support of this statement signed, dated and witnessed notebook pages describing the construction of the lentiviral Gateway destination vector pLenti6/V5-DEST are also submitted herewith. The pLenti6/V5-DEST vector allows the construction of a recombinant virus using site-specific recombination as claimed and described in the present application.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. § 102(a).

### ***III. Double Patenting***

Claims 17 and 44 stand rejected on the ground of non-statutory obviousness type double patenting as being unpatentable over claims 1, 17 and 18 of U.S. Patent No. 7,198,924. (Office Action, page 6.) Applicants defer responding to this ground of rejection until patentable subject matter has been determined, at which time Applicants will consider filing a terminal disclaimer.

### ***Conclusion***

Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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